

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

RITA F. HARMON,)
)
)
Plaintiff,))
)
v.) Case No. CIV-09-683-D
)
MICHAEL J. ASTRUE, Commissioner of)
Social Security Administration,)
)
Defendant.))

ORDER REGARDING ATTORNEY FEES

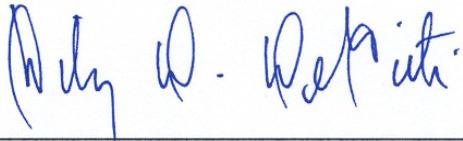
Before the Court is Plaintiff's Motion for Attorney Fees Pursuant to the Equal Access to Justice Act [Doc. No. 22]. Plaintiff requests an award of fees in the amount of \$5,628.80 for legal work performed in this case by her attorney, Timothy M. White, totaling 32.70 hours. Plaintiff is the prevailing party in this action under 42 U.S.C. § 405(g) by virtue of the Judgment and Order of Remand entered March 22, 2010. The Commissioner has filed a response to the Motion stating he does not object to Plaintiff's request.

Upon consideration of the Motion, the case record, and controlling law, the Court finds: (1) the Commissioner's position was not substantially justified; (2) Plaintiff is entitled to attorney's fees under the Equal Access to Justice Act, 28 U.S.C. § 2412(d); and (3) the amount requested is reasonable. The Court therefore finds that Plaintiff's Motion should be, and is hereby, granted.

IT IS THEREFORE ORDERED that Plaintiff shall recover an award of attorney fees pursuant to the Equal Access to Justice Act in the amount of \$5,628.80, payable by Defendant to Plaintiff in care of her attorney. Should an additional award of attorney's fees under 42 U.S.C.

§ 406(b) subsequently be authorized, Plaintiff's attorney shall refund the smaller award to Plaintiff as required by *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

IT IS SO ORDERED this 20th day of May, 2010.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE